IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 5696 of 2007(C)

PETITIONER:

PRASAR BHARATHI (BROADCASTING CORPN. OF INDIA), CIVIL CONSTRUCTION WING, ALL INDIA RADIO & DOORDARSHAN, CSEZ P.O., KAKKANAD, KOCHI-37, ERNAKULAM DISTRICT, REP. BY ITS EXECUTIVE ENGINEER (CIVIL), SHRI. K.BABU JANARDHANAN.

BY ADV. SRI.BOBY JOHN, CGC

RESPONDENTS:
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1. **THE ADDITIONAL SALES TAX OFFICER (WC), O/O. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES, THEVARA, ERNAKULAM.**

2. **THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.**

3. **THE ASSISTANT COMMISSIONER (WC), O/O. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM.**

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.5696 OF 2007-C

Judgment

The petitioner is a public sector undertaking. It challenges Ext.P19 interim order passed by the 2nd respondent appellate authority on the stay applications Exts.P13 to P18 filed along with appeals Ext.P7 to P12, challenging the assessment orders Exts.P1 to P6. The petitioner has been directed to pay 50% of the balance tax due for the years 1996-97 to 2001-02 by the impugned order. The petitioner submits, it is a mechanical order and stay should have been granted on more liberal terms especially in view of the fact that the appellant is a public sector undertaking.

2. I feel that the order is a very liberal order. The petitioner has been asked to pay only 50% of the balance tax, pending appeal. Everyone is equal before law. Therefore, a public sector undertaking cannot claim any preferential treatment. Having regard to the principle of balance of convenience in favour of the State, laid down by the Apex Court in ***Assistant Collector of Central Excise v. Dunlop India Ltd.*** (1985(1) SC 330), the direction to pay 50% of the amount to the State is just and proper. In the result, the Writ Petition fails and it is dismissed. If the petitioner moves for extension of time for payment of the amount, the appellate authority will consider and pass orders on it in accordance with law.

21.02.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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